

REMARKS

In view of the above amendments and the following remarks, reconsideration and further examination are respectfully requested.

I. Interview

Initially, the Applicants would like to thank Examiner Agustin for granting and conducting a personal interview on February 12, 2009 in connection with the above-identified application.

During the interview, the Applicant's proposed claim amendments to amend claim 46 were discussed in detail. The Examiner's position was that the proposed amendments would not overcome the outstanding 35 U.S.C. § 102(b) rejection based on the admitted prior art. Specifically, the Examiner stated that the proposed amendments will not overcome the rejection because the additional features are merely statements of intended use and/or processes that do not positively recite the structure of the claimed optical storage medium.

However, the Examiner did agree that the novelty of the invention lies within the feature of obtaining a "first-playback-signal-quality through jitter measurement which is performed, during a playback of the predetermined signal, by detecting the edge of a mark or a space NOT INCLUDING EDGES ADJACENT TO ONE OF AN $m \cdot T$ -length mark and an $m \cdot T$ -length space." The Examiner suggested amending claim 46 to recite the above-mentioned distinguishing limitation as a method step.

II. Amendments to the Claims

Based on the above-mentioned interview, Claim 46 has been amended to recite a measuring method that incorporates limitations similar to those identified by the Examiner as distinguishing over the admitted prior art. Further, dependent claims 151 and 152 have been amended in view of the amendments to independent claim 46.

In addition, claims 1-45 and 47-150 are cancelled.

III. 35 U.S.C. § 102 Rejection

Claims 46-50, 52, 53, 151 and 152 were rejected under 35 U.S.C. § 102(b) as being anticipated by the admitted prior art. This rejection is believed clearly inapplicable to amended independent claims 46 and claims 151 and 152 that depend therefrom for the following reasons.

As discussed above, claim 46 has been amended to recite features similar to those acknowledged by the Examiner as distinguishing over the admitted prior art. Specifically, claim 46 recites a measuring method of measuring a jitter of the edges of marks and spaces not including edges adjacent to one of a shortest mark and a shortest space. The admitted prior art fails to disclose or suggest the above-mentioned distinguishing features as recited in independent claim 46.

As acknowledged by the Examiner and as indicated in the Office Action of October 27, 2008, the admitted prior art merely teaches an optical storage medium having multiple tracks that are for recording information using marks and spaces arranged between the marks, wherein each mark has a mark length limited by a run length limited (RLL) modulation. However, as

acknowledged by the Examiner, the admitted prior art fails to disclose or suggest the measuring method of measuring a jitter of the edges of marks and spaces not including edges adjacent to one of a shortest mark and a shortest space, as recited in claim 46.

Therefore, because of the above-mentioned distinctions it is believed clear that independent claim 46 and claims 151 and 152 that depend therefrom are not anticipated by the admitted prior art.

Furthermore, there is no disclosure or suggestion in the admitted prior art or elsewhere in the prior art of record which would have caused a person of ordinary skill in the art to modify the admitted prior art to obtain the invention of independent claim 46. Accordingly, it is respectfully submitted that independent claim 46 and claims 151 and 152 that depend therefrom are clearly allowable over the prior art of record.

IV. Conclusion

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance and an early notification thereof is earnestly requested. The Examiner is invited to contact the undersigned by telephone to resolve any remaining issues.

Respectfully submitted,

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